IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 1ST NOVEMBER 2006 / 10TH KARTHIKA 1928

ST.Rev..No. 82 of 2005()

TA.524/1999 of S.T.A.T.ADDL.BENCH,ERNAKULAM
.....

REVISION PETITIONER/RESPONDENT/REVENUE:

STATE OF KERALA,
REP. BY DEPUTY COMMISSIONER (LAW),
COMMERCIAL TAXES, ERNAKULAM.

BY GOVERNMENT PLEADER SRI.V.V. ASOKAN

RESPONDENTS: APPELLANT/ASSESSEE:

M/S. BLUE STAR LTD.,
RAVIPURAM, COCHIN.

BY ADV. SRI. A. KUMAR

THIS SALES TAX REVISION HAVING COME UP FOR ADMISSION
ON 01/11/2006, ALONG WITH STRV NO. 89 OF 2005 STRV NO. 102 OF 2005
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR &
K.M. JOSEPH, JJ.

S.T. Rev.Nos. 82, 89 & 102 OF 2005

Dated this the 1st day of November, 2006

JUDGMENT

C.R.

Ramachandran Nair,J.

The common question raised in all the Tax Revision Cases filed by the State is the same. The respondent-assessee is engaged in manufacture and sale of Air-Conditioners, Water Coolers, Freezers, etc. During the years 1991-92 to 1993-94, the respondent-assessee sold Water Coolers and Freezers to an industrial unit in the Cochin Export Processing Zone (presently known as Cochin Special Economic Zone) without charging any sales tax on those sales in terms of notification, S.R.O.No. 1177 of 1987 as amended by SRO 1515 of 1988 which provided for exemption from sales tax on sale of plant and machinery, including components, spares, tools and consumables to the industrial undertakings in the Cochin Export Processing Zone. The purchasing industry was engaged in Tissue Culture, that is production of plant seedlings through tissue culture. However, the declarations issued by the purchaser based on which exemption was claimed by the respondent- assessee, were rejected by the assessing officer and

exemption was disallowed on the ground that tissue culture does not result in manufacture of goods qualifying for exemption. The Tribunal however found in favour of the respondent and allowed the tax appeals against which these Revisions are filed by the State.

2. We have heard Special Government Pleader appearing for the petitioner-State and counsel appearing for the respondent-assessee. In order to appreciate the contentions raised, we have to refer to notification under which exemption is claimed. Accordingly, amended SRO 1515/88 is extracted hereunder for easy reference:

> SRO No. 1515/88. In exercise of the powers conferred by Section 10 of the Kerala Ganeral Sales Tax Act, 1963 (15 of 1963), the Government of Kerala, having considered it necessary in the public interest so to do, hereby make an exemption in respect of tax payable under the said Act on the sale of industrial inputs, plant and machinery, including components, spares, tools and consumables in relation thereto, to the industrial undertakings in the Cochin Export Processing Zone, subject to the condition specified in Notification G.O.(MS) No. 86/87/TD dated the 25th August, 1987, published as S.R.O.No. 1177/87 in the Kerala Gazette Extra-ordinary No. 710 dated the 25th August, 1987.
>
> DECLARATION
>
> Certified that the goods covered by the following invoices/bills of M/s..... (full name and address of the

dealer) have been purchased for the manufacture of goods specified below in the Cochin Export Processing Zone and that they will not be used for any other purpose.

(1)...

(2)....

(3)....

Place..... Seal. Signature of the head of the
Date: Industrial undertaking.

It is obvious from the above notification read with declaration that an industrial unit in the Cochin Export Processing Zone is entitled to purchase plant and machinery, components, spares, tools, consumables, etc., for manufacture of goods by availing sales tax exemption. The item purchased, namely, Water Coolers and Freezers were declared by the purchaser as for manufacture of products through tissue culture. Therefore the only question to be considered is whether tissue culture is manufacture entitling for exemption for the purchase of plant and machinery under the notification SRO 1515/88. It is common knowledge plant tissue culture or micro propogation is a technique by which a plant is multiplied into several numbers. Technique basically consists of taking a piece of a plant such as a stem tip, node, meristem,

embryo, or even a seed, and placing it in a gel-based sterile nutrient medium, where it multiplies. This method leads to rapid formation of genetically identical plants. This is a popular technique adopted in nursery business and in plant bio-technology. The process of manufacture involves always production of new article or thing. Multiplication of a living organism by artificial means in an environment condusive to its production leads to industrial production of articles which cannot be said to be anything other than manufacture. We therefore agree with the finding of the Tribunal that production of seedlings in plant tissue culture is manufacture of goods entitling the purchasing industry for exemption from sales tax in terms of notification above referred.

We therefore uphold the order of the Tribunal and dismiss the S.T. Revs.

(C.N.RAMACHANDRAN NAIR)
Judge

(K.M. JOSEPH)
Judge.